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41 **STIPULATED PROTECTIVE ORDER GOVERNING THE USE OF CONFIDENTIAL INFORMATION-CV 10-02605-JW**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE

LANGUAGE LINE SERVICES, INC., a Delaware corporation,

Case No. CV 10-02605-JW

(Assigned to Hon. James Ware)

Plaintiff,

VS.

LANGUAGE SERVICES ASSOCIATES, LLC, a Pennsylvania corporation; WILLIAM SCHWARTZ, an individual; PATRICK CURTIN, an individual; and DOE DEFENDANTS 1 THROUGH 50,

**STIPULATED PROTECTIVE
ORDER FOR LITIGATION
INVOLVING HIGHLY
SENSITIVE CONFIDENTIAL
INFORMATION AND/OR
TRADE SECRETS**

Defendants.

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,
5 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
6 Order. The parties acknowledge that this Order does not confer blanket protections on all
7 disclosures or responses to discovery and that the protection it affords from public disclosure and use
8 extends only to the limited information or items that are entitled to confidential treatment under the
9 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that
10 this Stipulated Protective Order does not entitle them to file confidential information under seal;
11 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be
12 applied when a party seeks permission from the court to file material under seal.

13 2. DEFINITIONS

14 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
15 information or items under this Order.

16 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it
17 is generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule
18 of Civil Procedure 26(c). The “CONFIDENTIAL” information shall be limited to information which
19 the designating party or non-party believes in good faith contains or constitutes confidential business
20 or financial information including, for example, information concerning business processes or
21 operations, trade secrets, profits, losses or expenditures, personal information protected by a right to
22 privacy, information about non-parties that a party has an obligation to protect as confidential, and
23 competitively sensitive non-public market or financial information, the disclosure of which would be
24 harmful to the disclosing party.

25 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel
26 (as well as their support staff).

1 2.4 Designated House Counsel: House Counsel who seek access to “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this matter.

3 2.5 Designating Party: a Party or Non-Party that designates information or items
4 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

6 2.6 Disclosure or Discovery Material: all items or information, regardless of the
7 medium or manner in which it is generated, stored, or maintained (including, among other things,
8 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
9 responses to discovery in this matter.

10 2.7 Expert: a person with specialized knowledge or experience in a matter
11 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an expert
12 witness or as a consultant in this action, (2) is not a past or current employee of a Party or of a
13 Party’s competitor, and (3) at the time of retention, is not anticipated to become an employee of a
14 Party or of a Party’s competitor.

15 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
16 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another Party
17 or Non-Party would create a substantial risk of serious harm that could not be avoided by less
18 restrictive means.

19 2.9 House Counsel: attorneys who are employees of a party to this action. House
20 Counsel does not include Outside Counsel of Record or any other outside counsel.

21 2.10 Non-Party: any natural person, partnership, corporation, association, or other
22 legal entity not named as a Party to this action.

23 2.11 Outside Counsel of Record: attorneys who are not employees of a party to
24 this action but are retained to represent or advise a party to this action and have appeared in this
25 action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that
26 party.

1 2.12 Party: any party to this action, including all of its officers, directors,
2 employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

3 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
4 Material in this action.

5 2.14 Professional Vendors: persons or entities that provide litigation support
6 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
7 organizing, storing, or retrieving data in any form or medium) and their employees and
8 subcontractors.

9 2.15 Protected Material: any Disclosure or Discovery Material that is designated
10 as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

11 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from
12 a Producing Party.

13 3. SCOPE

14 The protections conferred by this Stipulation and Order cover not only Protected
15 Material (as defined above), but also (1) any information copied or extracted from Protected Material;
16 (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
17 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
18 However, the protections conferred by this Stipulation and Order do not cover the following information:
19 (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes
20 part of the public domain after its disclosure to a Receiving Party as a result of publication not involving
21 a violation of this Order, including becoming part of the public record through trial or otherwise; and (b)
22 any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party
23 after the disclosure from a source who obtained the information lawfully and under no obligation of
24 confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a
25 separate agreement or order.

1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations imposed by
 3 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
 4 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
 5 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and
 6 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits
 7 for filing any motions or applications for extension of time pursuant to applicable law.

8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for Protection. Party or
 10 Non-Party that designates information or items for protection under this Order must take care to limit any
 11 such designation to specific material that qualifies under the appropriate standards. To the extent it is
 12 practical to do so, the Designating Party must designate for protection only those parts of material,
 13 documents, items, or oral or written communications that qualify – so that other portions of the material,
 14 documents, items, or communications for which protection is not warranted are not swept unjustifiably
 15 within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
 17 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily
 18 encumber or retard the case development process or to impose unnecessary expenses and burdens on
 19 other parties) expose the Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it designated
 21 for protection do not qualify for protection at all or do not qualify for the level of protection initially
 22 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the mistaken
 23 designation.

24 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
 25 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
 26 Discovery Material that qualifies for protection under this Order must be clearly so designated before the
 27 material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents, but
3 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix
4 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to
5 each page that contains protected material. If only a portion or portions of the material on a page
6 qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by
7 making appropriate markings in the margins) and must specify, for each portion, the level of protection
8 being asserted.

9 A Party or Non-Party that makes original documents or materials available for inspection
10 need not designate them for protection until after the inspecting Party has indicated which material it
11 would like copied and produced. During the inspection and before the designation, all of the material
12 made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
13 ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the
14 Producing Party must determine which documents, or portions thereof, qualify for protection under this
15 Order. Then, before producing the specified documents, the Producing Party must affix the appropriate
16 legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each
17 page that contains Protected Material. If only a portion or portions of the material on a page qualifies for
18 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
19 appropriate markings in the margins) and must specify, for each portion, the level of protection being
20 asserted.

21 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
22 the Designating Party identify on the record, before the close of the deposition, hearing, or other
23 proceeding, all protected testimony and specify the level of protection being asserted. When it is
24 impractical to identify separately each portion of testimony that is entitled to protection and it appears
25 that substantial portions of the testimony may qualify for protection, the Designating Party may invoke
26 on the record (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21
27 days to identify the specific portions of the testimony as to which protection is sought and to specify the
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1 level of protection being asserted. Only those portions of the testimony that are appropriately designated
 2 for protection within the 21 days shall be covered by the provisions of this Stipulated Protective Order.
 3 Alternatively, a Designating Party may specify, at the deposition or up to 21 days afterwards if that
 4 period is properly invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY
 5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

6 Parties shall give the other parties notice if they reasonably expect a deposition, hearing
 7 or other proceeding to include Protected Material so that the other parties can ensure that only authorized
 8 individuals who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) are
 9 present at those proceedings. The use of a document as an exhibit at a deposition shall not in any way
 10 affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 11 ONLY.”

12 Transcripts containing Protected Material shall have an obvious legend on the title page
 13 that the transcript contains Protected Material, and the title page shall be followed by a list of all pages
 14 (including line numbers as appropriate) that have been designated as Protected Material and the level of
 15 protection being asserted by the Designating Party. The Designating Party shall inform the court reporter
 16 of these requirements. Any transcript that is prepared before the expiration of a 21-day period for
 17 designation shall be treated during that period as if it had been designated “HIGHLY CONFIDENTIAL
 18 – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the expiration of that
 19 period, the transcript shall be treated only as actually designated.

20 (c) for information produced in some form other than documentary and for any
 21 other tangible items, that the Producing Party affix in a prominent place on the exterior of the container
 22 or containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY
 23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information or
 24 item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
 25 portion(s) and specify the level of protection being asserted.

26 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
 27 designate qualified information or items does not, standing alone, waive the Designating Party’s right to

1 secure protection under this Order for such material. Upon timely correction of a designation, the
 2 Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the
 3 provisions of this Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
 6 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
 7 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a
 8 significant disruption or delay of the litigation, a Party does not waive its right to challenge a
 9 confidentiality designation by electing not to mount a challenge promptly after the original designation is
 10 disclosed.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
 12 process by providing written notice of each designation it is challenging and describing the basis for each
 13 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite
 14 that the challenge to confidentiality is being made in accordance with this specific paragraph of the
 15 Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin the
 16 process by conferring directly (in voice to voice dialogue; other forms of communication are not
 17 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must
 18 explain the basis for its belief that the confidentiality designation was not proper and must give the
 19 Designating Party an opportunity to review the designated material, to reconsider the circumstances, and,
 20 if no change in designation is offered, to explain the basis for the chosen designation. A Challenging
 21 Party may proceed to the next stage of the challenge process only if it has engaged in this meet and
 22 confer process first or establishes that the Designating Party is unwilling to participate in the meet and
 23 confer process in a timely manner.

24 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
 25 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil
 26 Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the initial
 27 notice of challenge or within 14 days of the parties agreeing that the meet and confer process will not

1 resolve their dispute, whichever is earlier. Each such motion must be accompanied by a competent
 2 declaration affirming that the movant has complied with the meet and confer requirements imposed in
 3 the preceding paragraph. Failure by the Designating Party to make such a motion including the required
 4 declaration within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality
 5 designation for each challenged designation. In addition, the Challenging Party may file a motion
 6 challenging a confidentiality designation at any time if there is good cause for doing so, including a
 7 challenge to the designation of a deposition transcript or any portions thereof. Any motion brought
 8 pursuant to this provision must be accompanied by a competent declaration affirming that the movant has
 9 complied with the meet and confer requirements imposed by the preceding paragraph.

10 The burden of persuasion in any such challenge proceeding shall be on the Designating
 11 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
 12 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
 13 Unless the Designating Party has waived the confidentiality designation by failing to file a motion to
 14 retain confidentiality as described above, all parties shall continue to afford the material in question the
 15 level of protection to which it is entitled under the Producing Party's designation until the court rules on
 16 the challenge.

17 7. ACCESS TO AND USE OF PROTECTED MATERIAL

18 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
 19 or produced by another Party or by a Non-Party in connection with this case only for prosecuting,
 20 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the
 21 categories of persons and under the conditions described in this Order. When the litigation has been
 22 terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL
 23 DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a location and
 25 in a secure manner that ensures that access is limited to the persons authorized under this Order.
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 27

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
2 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose
3 any information or item designated “CONFIDENTIAL” only to:

4 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
5 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
6 information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
7 that is attached hereto as Exhibit A;

8 (b) the officers, directors, and employees (including House Counsel) of the
9 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the
10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
12 is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to
13 Be Bound” (Exhibit A);

14 (d) the court and its personnel;

15 (e) court reporters and their staff, professional jury or trial consultants, and
16 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed
17 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (f) during their depositions, witnesses in the action to whom disclosure is
19 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
20 A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
21 deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound
22 by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated
23 Protective Order.

24 (g) the author or recipient of a document containing the information or a
25 custodian or other person who otherwise possessed or knew the information.

26 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
27 Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating

1 Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL
2 – ATTORNEYS' EYES ONLY" only to:

3 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
4 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
5 information for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound"
6 that is attached hereto as Exhibit A;

7 (b) Designated House Counsel of the Receiving Party (1) who has no
8 involvement in competitive decision-making, (2) to whom disclosure is reasonably necessary for this
9 litigation, (3) who has signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), and (4)
10 as to whom the procedures set forth in paragraph 7.4(a)(1), below, have been followed;

11 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably
12 necessary for this litigation, (2) who have signed the "Acknowledgment and Agreement to Be Bound"
13 (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been
14 followed;

15 (d) the court and its personnel;

16 (e) court reporters and their staff, professional jury or trial consultants, and
17 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed
18 the "Acknowledgment and Agreement to Be Bound" (Exhibit A); and

19 (f) the author or recipient of a document containing the information or a
20 custodian or other person who otherwise possessed or knew the information.

21 7.4 Procedures for Approving or Objecting to Disclosure of "HIGHLY
22 CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items to Designated House
23 Counsel or Experts.

24 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the
25 Designating Party, a Party that seeks to disclose to Designated House Counsel any information or item
26 that has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to
27 paragraph 7.3(b) first must make a written request to the Designating Party that (1) sets forth the full
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1 name of the Designated House Counsel and the city and state of his or her residence, and (2) describes
 2 the Designated House Counsel's current and reasonably foreseeable future primary job duties and
 3 responsibilities in sufficient detail to determine if House Counsel is involved, or may become involved,
 4 in any competitive decision-making.

5 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the
 6 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information
 7 or item that has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant
 8 to paragraph 7.3(c) may do so without disclosure of the identity of the Expert so long as the Expert is not
 9 a current officer, director, or employee of a Party or anticipated to become one.

10 (b) A Party that makes a request and provides the information specified in
 11 paragraph 7.4(a)(1) may disclose the subject Protected Material to the identified Designated House
 12 Counsel unless, within 14 days of delivering the request, the Party receives a written objection from the
 13 Designating Party. Any such objection must set forth in detail the grounds on which it is based.

14 (c) A Party that receives a timely written objection must meet and confer with
 15 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement
 16 within seven days of the written objection. If no agreement is reached, the Party seeking to make the
 17 disclosure to Designated House Counsel may file a motion as provided in Civil Local Rule 7 (and in
 18 compliance with Civil Local Rule 79-5, if applicable) seeking permission from the court to do so. Any
 19 such motion must describe the circumstances with specificity, set forth in detail the reasons why the
 20 disclosure to Designated House Counsel is reasonably necessary, assess the risk of harm that the
 21 disclosure would entail, and suggest any additional means that could be used to reduce that risk. In
 22 addition, any such motion must be accompanied by a competent declaration describing the parties'
 23 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and confer
 24 discussions) and setting forth the reasons advanced by the Designating Party for its refusal to approve the
 25 disclosure.

26 In any such proceeding, the Party opposing disclosure to Designated House Counsel shall
 27 bear the burden of proving that the risk of harm that the disclosure would entail (under the safeguards
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1 proposed) outweighs the Receiving Party's need to disclose the Protected Material to its Designated
2 House Counsel or Expert.

3 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN

4 OTHER LITIGATION

5 If a Party is served with a subpoena or a court order issued in other litigation that compels
6 disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY
7 CONFIDENTIAL – ATTORNEYS' EYES ONLY" that party must:

8 (a) promptly notify in writing the Designating Party. Such notification shall
9 include a copy of the subpoena or court order;

10 (b) promptly notify in writing the party who caused the subpoena or order to
11 issue in the other litigation that some or all of the material covered by the subpoena or order is subject to
12 this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

13 (c) cooperate with respect to all reasonable procedures sought to be pursued by
14 the Designating Party whose Protected Material may be affected.

15 If the Designating Party timely seeks a protective order, the Party served with the
16 subpoena or court order shall not produce any information designated in this action as
17 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a
18 determination by the court from which the subpoena or order issued, unless the Party has obtained the
19 Designating Party's permission. The Designating Party shall bear the burden and expense of seeking
20 protection in that court of its confidential material – and nothing in these provisions should be construed
21 as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another
22 court.

23 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
24 LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-
26 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
27 ATTORNEYS' EYES ONLY. Such information produced by Non-Parties in connection with this

1 litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions
2 should be construed as prohibiting a Non-Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request, to produce a
4 Non-Party's confidential information in its possession, and the Party is subject to an agreement with the
5 Non-Party not to produce the Non-Party's confidential information, then the Party shall:

6 1. notify in writing the Requesting Party and the Non-Party that some or
7 all of the information requested is subject to a confidentiality agreement with a Non-Party;
8 2. promptly provide the Non-Party with a copy of the Stipulated
9 Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description
10 of the information requested; and
11 3. make the information requested available for inspection by the Non-
12 Party.

13 (c) If the Non-Party fails to object or seek a protective order from this court
14 within 14 days of receiving the notice and accompanying information, the Receiving Party may produce
15 the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely
16 seeks a protective order, the Receiving Party shall not produce any information in its possession or
17 control that is subject to the confidentiality agreement with the Non-Party before a determination by the
18 court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking
19 protection in this court of its Protected Material.

20 10. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

21 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
22 Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the
23 Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
24 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
25 inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order,
26 and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound"
27 that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the Receiving Parties may not “sequester” or in any way use the document(s) pending resolution of a challenge to the claim of privilege or other protection to the extent it would be otherwise allowed by Federal Rule of Civil Procedure 26(b)(5)(B) as amended in 2006. This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the

1 law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
2 5(d) is denied by the court, then the Receiving Party may file the Protected Material in the public record
3 pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the court.

4 13. FINAL DISPOSITION

5 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
6 Receiving Party must return all Protected Material to the Producing Party or destroy such material. As
7 used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries,
8 and any other format reproducing or capturing any of the Protected Material. Whether the Protected
9 Material is returned or destroyed, the Receiving Party must submit a written certification to the
10 Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline
11 that (1) identifies (by category, where appropriate) all the Protected Material that was returned or
12 destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations,
13 summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding
14 this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial,
15 deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
16 expert reports, attorney work product, and consultant and expert work product, even if such materials
17 contain Protected Material. Any such archival copies that contain or constitute Protected Material
18 remain subject to this Protective Order as set forth in Section 4 (DURATION).

19
20 So Stipulated:

21 COWAN, DEBAETS, ABRAHAMS &
22 SHEPPARD LLP

23 MURPHY ROSEN & MEYLAN LLP

24 / Steven M. Weinberg/
25 Steven M. Weinberg

26 Attorneys for Plaintiff
Language Line Services, Inc.

1 BLANK ROME LLP

2 /Lawrence C. Hinkle/
3 Lawrence C. Hinkle

4 Attorneys for Defendant
5 Language Services Associates, Inc.

6 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

7 / Danielle Ochs-Tillotson/
8 Danielle Ochs-Tillotson

9 Attorneys for Defendants
10 Patrick Curtin and William Schwartz

11
12 ORDERED, this 6th day of October, 2010.

13
14 

15 Honorable Patricia V. Trumbull
16 United States District Court Magistrate Judge

EXHIBIT A

CERTIFICATION AND CONFIDENTIALITY AGREEMENT

I, _____, certify and declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on [date] in the case of LANGUAGE LINE SERVICES, INC. v. LANGUAGE SERVICES ASSOCIATES, LLC, et al., Case No. CV 10-02605JW. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I acknowledge that I am to retain all copies of any of the materials that I receive that have been designated as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” or “COUNSEL’S EYES ONLY” in a manner consistent with this Order, and that all such copies are to be returned or destroyed as specified in this Order on the termination of this litigation or the completion of my duties in connection with this litigation.

Date

Signature

City and State where sworn and signed

Printed Name